



1847.

No. 8.

ORDINANCE enacted by the Governor of South Australia, with the advice and consent of the Legislative Council thereof.

For the Establishment and Regulation of Markets.

[1st May, 1847.]

WHEREAS it is expedient to provide for the Establishment and Regulation of Markets. Preamble.

BE IT THEREFORE ENACTED by the Governor of South Australia, with the advice and consent of the Legislative Council thereof:—

THAT it shall be lawful for the Governor, whensoever it may appear expedient that Markets should be established in Adelaide, or in any other Towns or Places within the Province, to appoint such Markets accordingly, and to fix the times and places for the holding of such Markets; and to notify the same by Proclamation published in the South Australian Government Gazette. Governor may appoint Markets, and proclaim the times and places of holding the same.

II. AND BE IT ENACTED, that the Commissioners of Police appointed under an Ordinance passed on the Seventh day of September One Thousand Eight Hundred and Forty Four, "For regulating the Police in South Australia," shall be *ex officio* Commissioners of Markets for executing this Ordinance, within the limits for which they may be appointed. Commissioners of Police to be Commissioners of Markets

III. AND

Governor may appoint Officers.

III. AND BE IT ENACTED, that it shall be lawful for the Governor to appoint, by Warrant under his Hand and Seal, and also from time to time to remove Clerks of the Markets, and Inspectors, and such other Officers as may be necessary, with reasonable salaries or emoluments.

Governor to provide Market-places.

IV. AND BE IT ENACTED, that it shall be lawful for the Governor, within the places appointed as aforesaid, to erect and build or otherwise to provide sufficient Market-houses, with Shambles, Stalls, Cattle-pens, and other convenient erections and enclosures: And the said Market-places shall be the only places, within the limits for which they shall be appointed as aforesaid, where any Market for the sale of Cattle, Corn (except Corn or Grain sold by sample), Butchers' Meat, Poultry, Eggs, Fresh Butter, Vegetables, or other Provisions, shall for the future be held and kept: AND WHOSOEVER shall sell, or expose to sale, any Cattle, or any of the said Articles, or other Provisions usually sold in Markets, in any of the Streets, Lanes, Entries, Yards, or other Places, other than the Places so appointed and provided as aforesaid, shall, on conviction, for every such Offence forfeit and pay One shilling for every Sheep, Ram, Ewe, Lamb, Pig, or Goat, and Ten shillings for every head of other Cattle, and any sum not exceeding Five pounds for any other such Article so sold or exposed: PROVIDED that nothing herein contained shall prevent any person from selling, or exposing for sale, any of the articles aforesaid in his Dwelling house or Shop, in any part of any such Town or Place.

Penalty on selling or exposing elsewhere.

Except in shops and houses.

Commissioners may make bye-laws for regulation of Markets.

V. AND BE IT ENACTED, that it shall be lawful for the said Commissioners, and they are hereby authorised, from time to time to make, constitute, and ordain such Rules, Orders, and Bye-laws, as they shall think fit and necessary for the better regulation and management of such Markets, and for the cleansing, letting, occupying, and using the Market-places or any parts thereof; and also for regulating, ordering, and governing the Officers appointed under this Ordinance, and all other Persons, both Buyers and Sellers, thereto coming and resorting, and all matters which do or may concern, or relate to such Market; and the said Commissioners may from time to time, as they shall think fit, repeal, alter, add to, or amend any such Rules, Orders, Bye-laws, or any of them, and shall ascertain and therein set down what pecuniary and other Penalties and Forfeitures shall be incurred by Persons offending against such Rules, Orders, Bye-laws, or any of them; and all Persons are hereby required to observe and keep such Rules, Orders, and Bye-laws, under such forfeitures, and penalties respectively: PROVIDED that no such pecuniary penalty shall exceed the sum of Five pounds for any One offence; and such Rules, Orders, and

Proviso.

and Bye-laws, shall not be repugnant to law; and no such Rules, Orders, and Bye-laws, shall have force or effect till Ten days next after the same shall have been approved by the Governor, and by his direction published in the Government Gazette, and shall have been painted on boards in legible characters, and affixed in some conspicuous place in the Market to which the same may apply, which boards shall be renewed as often as the same may be defaced so as to be illegible.

VI. AND BE IT ENACTED, that it shall be lawful for the Clerk of the Market or other the Officers aforesaid, and such persons as they may call to their assistance, without any Warrant or other Authority than this Ordinance, to seize and detain any person (being unknown to them) who shall commit any Offence against this Ordinance, or against any Rule, Order, or Bye-law to be made in pursuance thereof, and to take him immediately before any Justice of the Peace, and such Justice is hereby required to proceed and act with respect to such offender according to law.

Offenders may be seized and taken before a Magistrate.

VII. AND BE IT ENACTED, that whenever a Market-place shall be appropriated and set apart and ready for public use, the Commissioner shall by a printed advertisement, to be posted on the Police Office, and also circulated in the Town and its Neighborhood, give Ten days' notice of such Market-place having been so established, appropriated, and set apart for public use, previous to the day on which such Market-place shall be opened in pursuance hereof.

When Market ready for public use, notice to be given.

VIII. AND BE IT ENACTED, that after the expiration of Ten days from such advertisement as aforesaid, it shall be lawful for the said Commissioners, by themselves, or the Clerks or other Officers appointed under this Ordinance, or for the Lessees after mentioned as the case may be, to ask, demand, recover, receive, and take from all persons exposing or offering for sale, or selling any Cattle, Corn, Grain, Hay, Straw, Goods, Wares, Merchandise, or any other Marketable Articles in any such Market, or who shall rent, hire, or use, any Stall, Standing place, Cattle-pen, or Enclosure therein, the several Tolls, Dues, or Sums of Money mentioned and specified in the Schedule hereunto annexed, or such other Tolls, Dues, or Sums of Money, as the Governor may by Proclamation from time to time appoint not exceeding the maximum rates specified in such Schedule; which several Tolls, Dues, or Sums of Money, the said Commissioners shall cause to be painted on boards, and affixed (and renewed as often as defaced) upon a conspicuous place in the Market in large and legible characters.

Tolls and dues may be taken.

IX. AND

Commissioners may
let the tolls and dues.

IX. AND BE IT ENACTED, that it shall be lawful for the said Commissioners, with the approbation of the Governor, to demise or let to farm, the Tolls or Market dues, or any part thereof, demandable under this Ordinance, for any time not exceeding Twelve Calendar months, and to let or demise any number of Stalls, Standings, Cattle-pens, or Enclosures, in the said Market, for any period not exceeding the said term of Twelve Calendar months.

Articles, &c., exposed
for sale, may be taken
in distress for rent or
Market dues.

X. AND BE IT ENACTED, that in case any person renting, holding, or using, or in any manner occupying any of the said Buildings, Stalls, Standings, Shambles, Cattle-pens, Enclosures, or other Conveniences in any such Market-place, or who shall bring, or place, or expose, or offer for sale in the said Market, any Cattle, Corn, Provisions, Goods, Wares, or Merchandise, for or in respect of which any Rents, Tolls, or Dues may be lawfully demanded or taken, shall not, upon demand thereof made by the Lessee thereof, or by the Collectors or Officers appointed under this Ordinance forthwith pay the same, it shall be lawful for the proper Officer, or for the Lessee, as the case may be, to levy the same by distress and sale of all or any of the Cattle, Goods, or Articles so exposed for sale, or other the Goods and Chattels of such persons so refusing, or neglecting to pay as aforesaid, and the said distress so to be taken to sell forthwith, rendering the overplus (if any) after deducting the expenses attending such distress and sale, to the owner, on demand.

Inspectors may seize
and destroy unwhole-
some food.

XI. AND BE IT ENACTED, that the Clerks of the Market, or other persons appointed as Inspectors of provisions in any such Market, shall and may, and are hereby authorised and required to seize and destroy all unwholesome Meat, Fish, or Provisions which shall be offered or exposed for sale in such Market.

Powers of Clerks and
Officers of the
Markets.

XII. AND BE IT ENACTED, that the Clerks of the Market, and other proper Officers appointed under this Ordinance, shall, for the purposes hereof, possess the powers and privileges of Constables, and be sworn in as such according to law; and either alone, or with their Assistants, shall preserve order, regularity, and cleanliness in the said Markets, and see that all Bye-laws for the regulation thereof are duly observed therein; and that they may summarily eject therefrom any Drunken or Disorderly person, or any one creating a Riot or Disturbance, or Cursing, Swearing, or using any Gross, Indecent, or Abusive Language, or being guilty of Gross or Indecent Conduct therein, or Smoking therein: AND WHOSOEVER shall resist any such Clerk or Officer in the exercise of his duty, whether in the Market or out of it, or shall neglect or refuse to obey the lawful orders of such Clerk or Officer, shall, over and above any other penalty which he may incur for assault or otherwise,

wise, forfeit and pay, on Conviction, for every such Offence, a sum not exceeding Twenty shillings.

XIII. AND BE IT ENACTED, that so far as not otherwise specially provided, all Penalties, Fines, Forfeitures, and Sums of Money incurred or imposed by this Ordinance, or by any Rule, Order, or Bye-law made in pursuance thereof, may be sued for and recovered in a summary way before any one or more Justices of the Peace (not being interested in the subject matter); and every person feeling aggrieved by any Conviction or Order under this Ordinance, or any such Bye-law, shall be entitled to appeal therefrom, under and according to the laws in force within the Province for the time being, for regulating summary proceedings before Justices of the Peace.

Proceedings for recovery of penalties, &c.

XIV. AND BE IT ENACTED, that all Tolls and Dues not being let to farm, Fines, Forfeitures, Penalties, and other Sums of Money levied or imposed by virtue of this Ordinance, shall be paid and appropriated to the Colonial Treasurer, on behalf of Her Majesty, Her Heirs, and Successors, for the Public uses of the Province, and the support of the Government thereof.

Appropriation clause

XV. AND for the protection of persons acting in execution of this Ordinance—BE IT ENACTED, that all actions for anything done under this Ordinance, shall be commenced within Six calendar months after the fact committed, and not otherwise, and notice in writing of such Action and the cause thereof shall be given to the Defendant One Calendar month at least before the commencement of the Action; and in every such Action the Defendant may plead the general issue, and give this Ordinance and the special matter in evidence at any trial to be had thereupon; and no Plaintiff shall recover, in any such Action, if tender of sufficient amends shall have been made before such Action brought, or if a sufficient Sum of Money shall have been paid into Court after such Action brought by or on behalf of the Defendant, together with costs incurred up to the time of paying the money into Court; and if a Verdict shall pass for the Defendant, or the Plaintiff become non-suited or discontinue such action after issue joined, or if upon demurrer, or otherwise, judgment shall be given against the Plaintiff, the Defendant shall recover his full costs as between Attorney and Client, and have the like remedy for the same as any Defendant hath by law in other cases; and although a Verdict shall be given for the Plaintiff in such Action, such Plaintiff shall not have costs against the Defendant, unless the Judge before whom the trial shall be, shall certify his approbation of the Action, and of the Verdict obtained thereupon.

Protection of persons acting in execution of this Ordinance.

XVI. AND BE IT ENACTED, that no Fine, Penalty, or Forfeiture, shall

Limitation of suits.

shall be recoverable by and under any of the powers given by this Ordinance, unless proceedings shall be commenced or taken for the same within One Calendar Month after the commission of the offence.

Where no Police Commissioner, Governor may appoint a Magistrate to act.

XVII. AND BE IT ENACTED, that in case there shall be no Commissioner of Police in any Town or Place wherein it may be expedient to establish a Market under this Ordinance, it shall be lawful for the Governor to appoint a person, being a Magistrate, and residing at or within Five miles of such Town or Place, to do and perform the several acts, and exercise the powers which the Commissioners of Police are herein directed, authorised, or required to do, perform, and exercise; and all acts done or performed by the person so appointed, shall have the same force and effect as if they were done or performed by a Commissioner of Police as aforesaid.

Rights of Her Majesty not to be affected.

XVIII. PROVIDED ALWAYS, AND BE IT ENACTED, that nothing herein contained shall be deemed to affect or interfere with any Right, Title, or Interest of Her Majesty, Her Heirs, and Successors, or in any way to limit the Royal Prerogative.

Repeal of sections 25 and 26 of Ordinance 7 and 8 Vict., No. 19.

XIX. AND BE IT ENACTED, that from and after the commencement of this Ordinance, so much of an Ordinance passed on the Seventh day of September, One Thousand Eight Hundred and Forty Four, intituled "An Ordinance for Regulating the Police in South Australia," as relates to the establishing of Markets and the making of Regulations for the same, and the forming of Stalls or Standings in the Market-houses, shall be and the same is hereby repealed.

Construction clause.

XX. AND BE IT ENACTED, that unless where the subject matter or context is repugnant to such construction, the word "Cattle" in this Ordinance shall be deemed and taken to mean, and to include Horses, Mares, Fillies, Asses, Mules, Camels, Bulls, Cows, Oxen, Heifers, Steers, Calves, Deer, Rams, Ewes, Sheep, Lambs, Goats, and Swine.

FREDK. H. ROBE,
Lieutenant-Governor.

*Passed the Legislative Council, this First
day of May, One Thousand Eight
Hundred and Forty Seven.*

W. L. O'HALLORAN,
Clerk of Council.

SCHEDULE

SCHEDULE REFERRED TO.

Tolls or Market Dues.

	<i>s.</i>	<i>d.</i>
For every horse, mare, gelding, foal, ass, or mule	1	0
“ ox, bull, cow, or heifer	0	6
“ seeep, ram, ewe and lamb, pig, or goat	0	1
“ load of hay, drawn by one horse or other animal	0	6
if drawn by two or more horses or other animals ..	1	0
“ load of straw, drawn by one horse or other animal	0	3
if drawn by two or more horses or other animals ..	0	6
“ load of wheat, or other grain, or seeds or potatoes or other esculent roots or vegetables, drawn by one horse or other animal	1	0
if drawn by two horses or other animals ..	1	3
if drawn by three horses or other animals ..	1	6
if drawn by four or more horses or other animals	1	8
For selling or exposing to sale in the market-place any article upon which market dues have not been otherwise charged; per week.....	1	0
For weighing every draft not exceeding 1cwt.....	0	1
exceeding 1cwt. and not exceeding 4cwt.....	0	2
exceeding 4cwt., one penny additional for every cwt. or part of a cwt.		
On a weigh-bridge, for each load or quantity	0	6
For every bull, ox, cow, heifer, and calf left in the market yards after the first night following the market day, an additional fee for every night, of ..	0	3
For every sheep, ram, ewe, goat, and pig, left as aforesaid, for every night, of	0	1 $\frac{1}{2}$
“ pair of oxen or bullocks yoked up in the market-yards.....	1	6